

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

APRIL 2, 1991

Mr. Paul M. Bohannon, Esq.
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NCNB Center
7000 Louisiana, Suite 3500
Houston, Texas 77002-2730

Dear Mr. Bohannon:

This is to inform you that we have concluded our review of the September 18, 1990 Request by Waste Crude Oil Reclaimers concerning the applicability of Subtitle C of the Resource Conservation and Recovery Act (RCRA) to crude oil reclaimer wastes. This letter continues with a summary of our tentative conclusions from the review of the request and our course of action for responding to the request.

In light of your request, and based upon our communications with various state regulatory authorities and industry representatives, it appears both necessary and appropriate at this time to clarify the Regulatory Determination for Oil and Gas and Geothermal Exploration, Development and Production Wastes (see 53 FR 25446; July 6, 1988) with respect to crude oil reclaimer wastes. The Agency plans to respond to your request in the form of an interpretive notice that will be published in the Federal Register. The notice would explain and clarify the intended meaning of the language concerning wastes from crude oil and tank bottom reclaimers that appeared in the Agency's Regulatory Determination. Specifically, the forthcoming notice would identify those reclaimer wastes that are and are not exempt from Subtitle C of RCRA.

While the Agency plans to detail its explanation of exempt and non-exempt wastes in the forthcoming notice, following is a brief summary of our preliminary position on reclaimers' wastes. Generally, those wastes that are derived from the processing by reclaimers of only exempt wastes from primary oil and gas field operations are also exempt from the requirements of Subtitle C. For example, wastes generated from the process of recovering crude oil from tank bottoms obtained from product storage facilities at primary field operations are exempt from Subtitle C because the product storage tank bottoms are exempt. This is based largely on the long held principle that, generally, wastes derived from exempt wastes remain exempt.

However, there are also solid and liquid wastes from reclaimer operations that are not exempt from Subtitle C to which the Agency intended to refer in its 1988 notice. Generally, those reclaimer

wastes derived from non-exempt oilfield wastes or that otherwise contain materials which are not uniquely associated with or intrinsic to primary exploration and production field operations would not be exempt. An example of these non-exempt wastes would be waste solvent generated from the solvent cleaning of tank trucks that are used to transport oil field tank bottoms. Such wastes would not be exempt from Subtitle C because the use of solvent is neither unique nor intrinsic to the production of crude oil.

The Agency plans to issue the notice as a clarification to a past Agency action -- the Regulatory Determination process -- which was subjected to public review and comment procedures. As such, the Agency would not solicit comments or additional information on the forthcoming notice. However, the Agency's public docket on the Regulatory Determination will be supplemented with materials you supplied, as well as other materials obtained by the Agency during the course of evaluating your September 18, 1990 request.

The Agency realizes the significant role that waste crude oil reclaimers can play in contributing to its waste minimization policy and goals. Our upcoming interpretive notice will allow us to avoid the inequities that would be imposed if we were to classify wastes that are exempt at primary field operations as non-exempt when generated off-site by commercial reclaimers. We trust that this letter, and the forthcoming Federal Register notice will be responsive to the concerns you and others have raised. Meanwhile, if you have any questions, please contact Mr. Bob Tonetti at (703) 308-8426.

Sincerely,

Don R. Clay
Assistant Administrator